

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14341
[Redacted],)	
)	DECISION
Petitioner.)	
)	
)	

On October 14, 1999, the Income Tax Audit Division of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), asserting additional corporate income tax and interest in the amount of \$138,050 for the 1995 through 1997 taxable years. On November 29, 1999, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request an informal hearing before the Commission. The Tax Commission, having reviewed the file, hereby issues its decision.

[Redacted] is an Idaho corporation with its principal office and place of business in [Redacted], Idaho. [Redacted] owns several unitary subsidiary corporations. [Redacted] and all but one of its unitary subsidiary corporations filed Idaho corporate income tax returns for the 1995 through 1997 taxable years under the combined reporting method.¹ On these returns the taxpayer claimed an Idaho net operating loss carryover that completely offset all of the Idaho taxable income reported by the group on its 1995 and 1996 Idaho returns and all but \$2,143 of the Idaho taxable income reported on the 1997 Idaho return. The Tax Commission's Income Tax Audit Division reviewed those combined group returns and adjusted the amount of the Idaho net operating loss carryover available in each of the years under review. The audit staff also adjusted the Idaho apportionment factor reported by the taxpayer on its 1995 combined group

¹ One of the unitary subsidiary corporations is exempt from Idaho income tax pursuant to Idaho Code § 41-405(1). As a result, that unitary subsidiary corporation was not included in the group's 1995 through 1997 Idaho corporate income tax returns.

returns. The result of these audit adjustments increased the Idaho taxable income of the combined group that was subject to Idaho corporate income tax by \$13,220 in 1995, \$253,879 in 1996, and \$1,187,520 in 1997.

The audit adjustments proposed by the Tax Commission's audit staff were based on an amended judgment entered by the Idaho District Court, Fourth Judicial District, in a case involving a prior audit of the taxpayer's Idaho combined group returns. The prior audit had covered the 1993 and 1994 taxable years. The Commission's income tax audit staff had made several adjustments to those returns which significantly limited the amount of the Idaho net operating loss carryover that was available in those years, as well as the carryover amount that was available in future years. The Tax Commission upheld those audit adjustments. See Tax Commission final decision in docket number 11931. The taxpayer then appealed the Commission's final decision to the District Court. The District Court eventually entered an amended judgment that reversed the Tax Commission's final decision in part and upheld the final decision in part. See Order Granting Motion for Reconsideration issued October 4, 1999, in Ada County District Court case number CV-OC-98-03010D. As a result of the amended judgment of the Idaho District Court, the Commission's audit staff recalculated the amount of the Idaho net operating loss carryover available to the [REDACTED] unitary group for the 1995 through 1997 taxable years, and the deficiency determination that is the subject matter of this administrative protest was issued.

[Redacted] appealed the amended judgment of the District Court to the Idaho Supreme Court. Because the amended judgment relating to the 1993 and 1994 taxable years was being appealed to the Idaho Supreme Court, [Redacted] filed an administrative protest of the Notice of Deficiency Determination issued for the 1995 through 1997 taxable years. The purpose of the protest was to preserve the right to challenge the 1995 through 1997 tax deficiency should the

Idaho Supreme Court find that the District Court had incorrectly determined the amount of the carryover available in the 1993 and 1994 taxable years.

The parties agreed to hold this protest in abeyance until the Idaho Supreme Court issued its decision regarding the 1993 and 1994 tax deficiency. On July 31, 2001, the Idaho Supreme Court issued its substitute opinion in which it upheld the amended judgment of the Idaho District Court. See AIA Services Corporation v. Idaho State Tax Com'n, 136 Idaho 184 (2001). After receiving the opinion of the Idaho Supreme Court, the Tax Commission asked the taxpayer's representative whether the company had any additional arguments or materials to submit for consideration. No additional arguments or materials were presented to the Commission. As a result, the amount of the Idaho net operating loss carryover that was calculated by the Tax Commission's audit staff appears to be correct.

WHEREFORE, the Notice of Deficiency Determination dated October 14, 1999, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$ 998	\$ 468	\$ 1,466
1996	24,815	9,564	34,379
1997	94,911	28,313	<u>123,224</u>
		TOTAL	<u>\$159,069</u>

Interest is calculated through February 28, 2002, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

AIA SERVICES CORPORATION

P.O. BOX 538

[REDACTED]

[Redacted] [Redacted] [Redacted] [Redacted]

Receipt No. [Redacted]

ADMINISTRATIVE ASSISTANT 1